Criminal Revision No.797 of 1993.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Date of Decision: December 03,2007.

Jagdish **...** Petitioner

VERSUS

Ram Naresh and others **...**Respondents

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

CORAM :

HON'BLE MR. JUSTICE MOHINDER PAL.

Present: Mr. Sudhir Sharma, Advocate,
for the petitioner.

Mr. Pritam Saini, Advocate,
for the respondents.

-.-

MOHINDER PAL, J.

This revision petition has been filed by Jagdish, father of complainant Surender, against the judgment dated

Criminal Revision No.797 of 1993.

September 02, 1993, passed by the learned Additional Sessions Judge, Sonepat, whereby accused-respondents Ram Naresh and Krishan were acquitted of the charge framed against them under Section 307 read with Section 34 of the Indian Penal Code (hereinafter referred to as `the Code').

2. The accused-respondents were tried in case First Information Report 252 dated September 12, 1992, registered at Police Station Kharkhoda under Section 307/34 of the Code on the allegations that on September 11, 1992 at about 7.30 P.M they attempted to murder Surender (P.W.5) son of Jagdish (P.W.4) by tying a rope around his neck and pulling it. Surender had become unconscious and had to be hospitalized. On the next morning i.e September 12, 1992, police came to hospital and recorded statement (Exhibit P.D) of Surender, on the basis of which present case was registered. Accused-respondent Ram Naresh got recovered rope (Exhibit P.7) from the `Bajra' field on the basis of his disclosure statement. As per opinion of the doctor given on police request, the possibility of injury on the neck of Surender being dangerous to life could not be ruled out.

3. After completion of investigation, challan against the accused was presented.

4. After recording evidence and hearing arguments of learned counsel for the parties, the trial Court held that the prosecution has miserably failed to bring home the guilt of the

accused and the case appears to be of false implication and based on fabrication. For reaching this opinion, the trial Court took into consideration strained relations of Jagdish (P.W.4) with his brother Ram Naresh (accused-respondent) and his father Kishan Chand on account of property dispute and they were not even on speaking terms with each other, as admitted by Jagdish (P.W.4). In view of this, the trial Court observed that there was no question of Surender accompanying Ram Naresh (accused) on the evening of September 11, 1992, when an attempt was allegedly made by the accused to strangulate him. The trial Court also observed that Ravinder, Dilbagh, Shamsher Singh, Bijay and Bhagwan Singh, who had allegedly brought Surender from the fields i.e place of occurrence, on hearing the cries, were the most important witnesses. None of them came forward to support the version of the complainant. The trial Court also disbelieved the statement of complainant Surender (P.W.5), aged about twelve years when he stated that both the accused put a rope around his neck and both of them pulled the same, as a result of which he became unconscious. Statement of Surender (P.W.5) stood belied from the statement of Dr.S.P. Chug (P.W.8), who had categorically deposed that around the neck of Surender, there was no complete ligature mark. There was a space in the ligature marks, which according to the doctor, could be observed in cases of hanging. The doctor further deposed that if it would have been a case of

strangulation, then the rope would have been tightened around the whole neck and pulled. In such a situation, the ligature marks would have been complete around the neck and there was no question of remaining any space on the neck. The trial Court further disbelieved the prosecution version by observing that the accused would not have made an unsuccessful attempt to murder Surender and left evidence because Surender had become unconscious and on regaining consciousness he could have disclosed their names. Thereafter the trial Court gave firm opinion that the accused did not make any attempt to strangulate Surender and the defence version appears to be more plausible when the accused stated that relations between the parties were strained; that Surender was not good at his studies; that he was beaten by his father and out of anguish he made a suicidal attempt; and that the space on his neck in between ligature marks also fully corroborates that it was an attempt to take life by hanging and was not an act of strangulation. The trial Court concluded by referring to the evidence of Dr. S.P. Chugh (P.W.8) wherein he stated that the ligature marks on the neck of Surender could be caused or suffered by a friendly hand. The doctor had not given a definite opinion about the injury to be dangerous to life. Symptoms of strangulation have not come in light in the medical evidence. The conclusion of medical evidence points more towards suspected hanging than strangulation.

5. After hearing the learned counsel for the parties and going through the records of the case, I do not find any infirmity in the above-mentioned findings of the trial Court. The impugned judgment is well-reasoned and calls for no interference in exercise of revisional jurisdiction of this Court. In the case of **Bindeshwari Prasad Singh @ B.P. Singh and others v. State of Bihar (Now Jharkhand) and another, 2002 (4) R.C.R (Criminal) 61: 2002 Cri.L.J 3788: 2002 A.I.R (SC) 2907: 2002 (3) Crimes 130**, the apex Court observed that High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice. It was further observed that High Court should not re-appreciate the evidence to reach a finding different from the trial Court except to prevent miscarriage of justice. Learned counsel for the petitioner has not been able to show that the learned Additional Sessions Judge passed the impugned judgment without considering material evidence on record or that his judgment is consisted of faulty reasoning. In the instant case, I find that this is a case of complete application of mind on the part of the trial Court. All aspects have been rightly and consistently considered and adequate reasons, as elaborated above, have been given by the trial Court for acquitting the accused-respondents. Consequently, I do not

Criminal Revision No.797 of 1993.

find any reason to convert the finding of acquittal, recorded by the trial Court, into one of conviction.

For the aforesaid reasons, I uphold the impugned judgment and dismiss the revision petition.

December 03 , 2007. **(MOHINDER PAL)**
ak **JUDGE**